

1 clarify what it was you saw when you looked up
2 the Beeson matter?

3 A. Yes.

4 Q. Would it be your recollection and your
5 testimony that you did not see, when you looked
6 up the Beeson matter, that she was placed on
7 Business Options service, then she left Business
8 Options and then she went back to Business
9 Options sometime in April of 2002?

10 A. Whenever I look up any customer, all I
11 see is -- I don't even see the day that they were
12 actually transferred. All I see is the date that
13 they were verified. And I had been instructed
14 to -- as long as we had some sort of verification
15 date or some tape or some correspondence in the
16 remarks section that they accepted the service,
17 then it was not an unauthorized change.

18 Q. And to put a -- to add to that, to
19 amplify that matter, if, for example, the
20 verification tape that you saw or saw reference
21 to, reflected that the verification had occurred

1 in March of 2002, then it would have been your
2 conclusion that no switch of any kind had
3 occurred subsequent to April 1?

4 MR. HAWA: I didn't understand that
5 question.

6 Q. As I understood Ms. Dennie's
7 testimony, the screen that she looked at
8 reflected, among other things, that a
9 verification had occurred and that there had
10 actually been a date with respect to that
11 verification, or am I reading that in?

12 A. Yes.

13 Q. There was a date?

14 A. I believe that there was a date of the
15 verification.

16 Q. And if the verification had taken
17 place prior to April 1, which in the case of Ms.
18 Beeson, the verification tape exists for some
19 date in March, then you would have come to the
20 conclusion that no switch of any kind had
21 occurred after April 1, given what you were

1 looking at?

2 A. Right. Because the only switch that I
3 would know that would have occurred was the one
4 that was as the result of the verification. And
5 when I read the question and realized that they
6 were talking about unauthorized switches, I have
7 would have never put the two together because we
8 have the verification. And that's what I was
9 told to look for. To make sure we had a tape or,
10 you know, the verification date on the screen.

11 Q. When you looked at that screen, did
12 you have any knowledge that a switch had occurred
13 in April?

14 A. I understand a switch has to take
15 place, but there's no indication that there -- I
16 mean, it's part of the process that a switch take
17 place. So when I saw the verification, okay, of
18 course, the customer is going to go from whomever
19 she was previously to Business Options. You
20 know, if there's a verification date and if
21 there's a tape available at that time, then it

1 would be an authorized switch. And that's the
2 way I responded to the questions.

3 Q. We may be close to being on the same
4 page, but I'm not sure we're really there. You
5 can see from telephone bills here that there was
6 a switch that occurred initially in March from
7 Verizon to Business Options. And with respect to
8 that switch, we, I think, have an understanding
9 that there's a verification tape of some kind.
10 So that the switch that occurred in March
11 arguably was authorized. What I'm trying to
12 focus on is what happened in April.

13 A. There would be no way -- well, then, I
14 knew of no other way and no one had ever told me
15 of any other way for me to find out if that
16 customer had been switched subsequently to the
17 initial switch.

18 Q. All right. And, I think, probably the
19 only way to really get a handle on that would be
20 if there was some possible way we could get a
21 printout of whatever it was that Ms. Dennie

1 looked at, understanding that that might be
2 impossible given that we're now well into 2003
3 and obviously what she looked at was a record
4 that existed in late 2002.

5 MR. HAWA: And for the record, when he
6 said looking at the telephone bills, he's talking
7 about looking at the telephone bills now, today.
8 Not looking at telephone bills nine months ago.
9 You weren't looking at what you're looking at now
10 then.

11 MR. SHOOK: Right. I understood from
12 the situation, but let's clarify it. You did not
13 have access to Barbara Beeson's telephone bills
14 from March, April, May and June that I've shown
15 you today?

16 THE WITNESS: No, I didn't.

17 BY MR. SHOOK:

18 Q. Having used the Beeson situation as a
19 representative example, would it be fair to
20 assume that with respect to the other two
21 complaint matters that you looked at, that being

1 for McAyilis and Stack on behalf of her mother
2 Bessie Goodbring, that you did not have access to
3 the telephone bills of those individuals --

4 A. That's correct.

5 Q. -- the McAyilis's and Bessie Goodbring?

6 A. That's correct.

7 MR. HAWA: I have an objection. The
8 questions is not whether or not she had access --

9 MR. SHOOK: Whether she had looked at
10 them.

11 THE WITNESS: No. I didn't look at
12 them.

13 BY MR. SHOOK:

14 Q. Now, with respect to point three of
15 the November 1 letter from the FCC, did you and
16 Kurtis discuss the answer that ultimately was
17 given to the FCC?

18 A. We read it together. And both of us
19 understood that if the answer to three was no,
20 then the if so's would not be applicable.

21 Q. Along those lines, I want to show you

1 a letter dated December 9, 2002. It's addressed
2 to the FCC, particularly Peter Wolfe. And the
3 first page has a signature, I just want to verify
4 that that's your signature.

5 A. Yes.

6 Q. And why don't you briefly take a look
7 throughout that and see whether or not that is
8 what it was that you sent to Mr. Wolfe.

9 (Witness Reviewing Document.)

10 Q. The answer is yes?

11 A. What was the question?

12 Q. Whether what you just looked at, and
13 we'll amplify if for the record, this is what you
14 sent to the FCC?

15 A. Yes. This is what I sent.

16 Q. The December 9 letter and the various
17 attachments that follow?

18 A. Yes.

19 Q. And with respect to page two, there
20 are a series of numbered responses, one through
21 six. These were -- the responses that appear

1 here, are they ones that you personally prepared?

2 A. Yes.

3 Q. Did anybody else draft them?

4 A. Kurtis reviewed it. I typed it. And
5 I provided some of the responses.

6 Q. For example, with respect to response
7 number one that shows Kurtis as being a 70
8 percent owner, president, COB and Keanan being 28
9 percent owner secretary/treasurer and director,
10 do you remember how it was you came to have that
11 information?

12 A. I don't remember -- I got it from
13 Kurtis.

14 Q. He told you?

15 A. What I did was, I typed up a draft. I
16 took it in his office and I let him review it.
17 And he crossed off -- he changed the percentages.

18 Q. Do you remember what the percentages
19 were?

20 A. No, I don't.

21 MR. HAWA: Why does my copy say 72 and

1 28 and this one says 70 and 28.

2 THE WITNESS: Because you have the
3 copy that Kurtis changed.

4 (Discussion held off the record.)

5 BY MR. SHOOK:

6 Q. What you remember is that Kurtis
7 looked at it and then changed at least of one of
8 the percentage figures from 72 to 70?

9 A. Yes.

10 Q. In responding to question number one,
11 did you have the FCC letter with you at the time
12 to look at in order to see whether or not what it
13 was that you had actually responded to what the
14 FCC had been asking for?

15 A. Did I have this in front of me when I
16 was drafting this (indicating)?

17 Q. No. Not in front of you. What I'm
18 focussing on now is when you and Kurtis were
19 looking at the draft that you had prepared --

20 A. I took this into him independently.

21 Q. You did not have with you at the time

1 the FCC letter November 1, 2002 so that you could
2 compare --

3 A. No.

4 Q. -- side by side, this is what the FCC
5 is asking for and this is what we're saying?

6 A. No.

7 Q. You did not?

8 A. No. We went over this previously and
9 then I worked on it.

10 Q. When you say "we went over this
11 previously," you and Kurtis had discussed what to
12 do in order to respond to the November 1, 2002
13 letter, but that when you and Kurtis actually
14 looked at the draft responses that you had
15 prepared that ultimately became page two of this
16 December 9 letter to Peter Wolfe, the November 1,
17 2002 letter was not there so that you could look
18 side by side?

19 A. No. Not at the same time, no.

20 Q. So with respect to the response to
21 question number two, did Kurtis change that

1 response in any way?

2 A. No, he didn't.

3 Q. With respect to the response to
4 question number three, did Kurtis change the
5 response in any way?

6 A. No.

7 Q. And Kurtis was not looking at the
8 question number three at the time that he was
9 looking at the response to question number three?

10 A. No, he wasn't.

11 Q. With respect to question number four,
12 did he change the response in any way?

13 A. No, he didn't.

14 Q. With respect to question number five,
15 did Kurtis change the response in any way?

16 A. No, he didn't.

17 Q. With respect to question six, did
18 Kurtis change the response in any other way?

19 A. No, he didn't.

20 Q. All right. With respect to the
21 responses that were made to questions seven

1 through eleven, if you could, please, look at the
2 next page of the December of the 9 letter that
3 went to Peter Wolfe. I'm going to ask you
4 whether that was what you had intended to send to
5 the FCC in response to questions seven through
6 eleven of its November 1, 2002 letter?

7 A. Yes.

8 Q. Who is Gene Chill.

9 A. He was vice-president of the
10 administration.

11 Q. And why is it that he's responding to
12 questions seven through eleven of the November 1,
13 2002 letter?

14 A. Because I wasn't here during this time
15 and he was over personnel and Kurtis told me that
16 I could go to him for the answers to those
17 questions.

18 Q. And you, in fact, did so?

19 A. Yes.

20 Q. And what we have, even though it is
21 and unsigned document, is, to your knowledge, a

1 document that Mr. Chill prepared?

2 A. Yes.

3 Q. Responses to questions seven to
4 eleven?

5 A. Yes.

6 Q. Or intended at least to be responses
7 to questions seven through eleven.

8 A. Yes.

9 MR. HAWA: Warmly responding to
10 questions seven through eleven.

11 MR. SHOOK: Mr. Chill apparently has a
12 wonderful habit of signing his letters warmly?

13 THE WITNESS: Yes.

14 BY MR. SHOOK:

15 Q. Did you and Mr. Chill discuss at all
16 the responses that were made to questions seven
17 through eleven?

18 A. No. Nothing other than I told him
19 what I needed. I'm not sure, but I may have
20 showed him the question that I needed to answer.
21 And told him that I was told to contact him for

1 the answer. And he told me he would supply me
2 with an answer.

3 Q. Do you know whether or not Mr. Chill
4 discussed with Kurtis the answers to questions
5 seven through eleven?

6 A. I don't know.

7 Q. There are a number of pages that
8 follow in the December 9 response. And I'd like
9 you to just describe them for the record as you
10 understand them.

11 A. This is our authority to operate in
12 the State of Illinois.

13 Q. And what did you understand that to be
14 responsive to?

15 A. It is asking if Business Options was
16 properly registered. And their registration
17 document and their corporate information.

18 Q. So the certificate from the State of
19 Illinois was meant by you to be responsive to
20 question two that appears on the November 1, 2002
21 letter?

1 A. Yes.

2 Q. In hindsight, do you have any
3 understanding as to whether or not what you
4 supplied was, in fact, responsive?

5 A. No. It wasn't what you were asking
6 for.

7 Q. You understand that now?

8 A. Yes. I understand that now.

9 Q. You didn't understand that then?

10 A. No, I didn't.

11 Q. What follows the certificate?

12 A. A policy letter concerning our
13 relationship with long distance carriers and
14 local exchange carriers.

15 Q. And what did you understand that to be
16 responsive to?

17 A. It was -- I think they were asking
18 for -- number six, provide all documents
19 outlining BOIs policies for complying with -- it
20 was asking for the procedures for monitoring and
21 dismissing employees.

1 Q. And which question was that?

2 A. It was six.

3 Q. What about the next page of the
4 response that you submitted to the FCC?

5 A. Standard sales pitch.

6 Q. And what was that responsive to?

7 A. Four and five -- number four, provide
8 copies of telemarketing scripts.

9 Q. What follows in the response?

10 A. Another sales pitch.

11 Q. Also responsive to point four of the
12 November 1, 2002 letter?

13 A. Yes. Objections handling.

14 Q. Also responsive to point four?

15 A. Yes. And that's all.

16 Q. Knowing what you know now, is there
17 anything that you would do differently as a
18 consequence of receiving a letter similar to the
19 letter of November 1, 2002 from the FCC?

20 A. Now I read everything. And I read on
21 a regular basis all the regs that apply to

1 telecommunication industry and that has helped
2 out a lot. Also --

3 MR. HAWA: I assume when you say
4 "anything," you're saying anything internally as
5 opposed to contacting outside counsel, retaining
6 outside counsel?

7 MR. SHOOK: Right. What she would do
8 herself. And if it comes to contacting outside
9 counsel, if that's part of the response, that's
10 fine. I'm not asking for the specific
11 communication.

12 MR. HAWA: That's not what I was
13 suggesting.

14 THE WITNESS: I can't determine
15 whether or not my company gets outside counsel or
16 not, that's --

17 BY MR. SHOOK:

18 Q. Outside of your area of
19 responsibility?

20 A. Right.

21 Q. I'm just saying, if a letter came from

1 the Federal Communications Commission and it was
2 similar to the November 1, 2002 letter, what
3 would you do?

4 A. I would, as I said, I'd look up the
5 regulations immediately to find exactly what was
6 required. And make sure that what I'm supplying
7 you with is exactly what you're asking for.

8 Q. Would you bring this letter to
9 Kurtis's attention?

10 A. Oh, yes. Most definitely.

11 Q. Is there anybody else's attention that
12 you would bring the letter to?

13 A. Since Kurtis is my senior, that's who
14 I need to report it to. And I would make sure
15 that whatever the response is that I submit, he
16 got a chance to review it thoroughly.

17 Q. There's only a few other matters that
18 I'd like to explore. I think we could probably
19 do them before breaking for lunch. Did there
20 come a time when it came to your attention that
21 the State of Kansas had a problem with something

1 that Business Options had done?

2 A. I think a little while after I got
3 there, I think I was aware of something that
4 happened. I can't remember exactly what it was.

5 Q. Do you recall whether or not the State
6 of Kansas ever proposed to fine Business Options
7 \$150,000?

8 A. Yes. I remember that.

9 Q. If you could describe for us how it
10 came to be that Kansas proposed such a fine?

11 A. I really don't know. I think when I
12 got there, it was already in place or I got it a
13 few days, you know, within the week that I got --
14 that I had started working there. And I told
15 Kurtis of the situation. And they requested some
16 documents, some financial documents. And I
17 remember getting all the documents together and
18 forwarding them to Kansas.

19 Q. Along those lines, the first thing I
20 want to show you is an unsigned letter that bears
21 a date of November 25, 2002. It's addressed to

1 Kristy L. Hiebert, H-I-E-B-E-R-T, and ask if you
2 recognize this letter?

3 A. Yes.

4 Q. Is this a letter that you actually
5 signed and sent?

6 A. I'm not sure. I believe it is, I'm
7 not sure though.

8 Q. There's an indication in the letter
9 that certain documents are going to be gathered
10 and sent to the State of Kansas by December 13,
11 2002. Do you know whether or not you did that?

12 A. I sent the document. I don't know if
13 I got it out on December 13th, but I'm sure I
14 sent it out.

15 Q. So documents ultimately were sent to
16 the State of Kansas?

17 A. Yes.

18 Q. And it may have been a date other than
19 December 13th, 2002?

20 A. Yes. It could have been, yes.

21 (Discussion held off the record.)

1 Q. We understand from a discussion off
2 the record that the matter that we're talking
3 about is not yet final. And some of the dollar
4 figures we're talking about now apparently are
5 substantially different from those that may
6 ultimately be part of any final settlement
7 between Business Options and the State of Kansas.
8 With that in mind, the next document that I want
9 to show you is one dated January 2, 2003 and ask
10 whether or not you can identify it?

11 A. Uh-huh. Yes.

12 Q. So the document dated January 2, 2003
13 that bears the signature of Shannon Dennie, that
14 is your signature?

15 A. Yes.

16 Q. The attachments included in there are
17 attachments that you sent to the State of Kansas?

18 A. Yes.

19 Q. Specifically the four matters that are
20 referenced in the -- on the first page, the
21 letter signed by yourself, U.S. Income Tax Return

1 for an S Corporation for 2000, for 2001 and
2 profit-and-loss statement and balance sheet for
3 the years 2000 and 2001?

4 A. Yes.

5 Q. Could you describe for us how it came
6 to be that you sent this letter to the State of
7 Kansas.

8 A. I believe before I got there, Bill
9 Brzycki may have offered \$10,000 to settle the
10 matter. I don't think they accepted it. They
11 proposed \$150,000. And then, I think, somehow it
12 was established to them that we couldn't pay
13 that. And then by the time I got involved, they
14 were requesting these documents be sent to them.
15 And then I -- I'm not sure if I got these copies
16 from the accounting or from a file or something.
17 And I sent what they asked for.

18 Q. Do you have any understanding as to
19 why it was that only the income tax returns for
20 Business Options were sent and not those for Buzz
21 Telecom?

1 MR. HAWA: Rather than object, can you
2 explain the relevance of filings made to Kansas,
3 when, to my knowledge, Kansas hasn't brought
4 anything to the attention of the FCC related to
5 this case in any way?

6 MR. SHOOK: We're trying to understand
7 the processes by which materials are prepared,
8 reviewed and sent out from Business Options. And
9 in this particular instance, I'm just trying to
10 understand how it was that documents only for
11 Business Options were sent as opposed to those or
12 perhaps in addition to those for Buzz Telecom.

13 MR. HAWA: Go ahead.

14 THE WITNESS: From what I understand
15 now, we were registered in that state as Business
16 Options. And so the tax returns for Business
17 Options were the ones that they asked for. And
18 so those were the ones that I sent them.

19 BY MR. SHOOK:

20 Q. Did you have any understanding in
21 January of 2003 of the interplay, for lack of a

1 better term, between Business Options and Buzz
2 Telecom?

3 A. I always understood that Business
4 Options was a service and Buzz Telecom was the
5 corporation.

6 Q. The corporation that did what?

7 A. The corporation -- the one that
8 actually had the employees. Business Options has
9 no employees.

10 Q. Business Options has a product?

11 A. Has a product, exactly.

12 Q. That product being long distance
13 telephone service?

14 A. Right.

15 Q. That product is the one that generates
16 the income to pay the Buzz Telecom employees?

17 A. Right.

18 Q. Did there ever seem to be a problem to
19 you that Buzz Telecom could have as many
20 employees as it did and yet the Business Options
21 tax returns were reflecting gross income less